

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

XAVIER BUCKHANAN,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

Case No. 1:24-cv-0811 JLT SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATION, DISMISSING THE
ACTION WITHOUT PREJUDICE, AND
DIRECTING THE CLERK OF COURT TO
CLOSE THIS CASE

(Doc. 20)

Xavier Buckhanan is proceeding *pro se* in this action, filed pursuant to *Bivens v. Six Unknown Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) and the Federal Tort Claims Act, 28 U.S.C. § 1267. The magistrate judge found Plaintiff failed to prosecute the action and failed to comply with the Court's order. (Doc. 20 at 1-2.) The magistrate judge found dismissal of this action without prejudice was appropriate, after considering the factors identified by the Ninth Circuit in *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986). (*Id.* at 2-3.)

The Court served these Findings and Recommendations Plaintiff and notified him that any objections were due within 30 days. (Doc. 20 at 2-3.) The Court advised Plaintiff that the "[f]ailure to file objections within the specified time may result in the waiver of rights on appeal." (*Id.* at 4, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file objections and the time to do so expired.

According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.

1 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
2 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 3 1. The Findings and Recommendations issued on November 18, 2024 (Doc. 20) are
4 **ADOPTED** in full.
- 5 2. This action is **DISMISSED** without prejudice for Plaintiff's failure to prosecute and
6 failure to obey the Court's order.
- 7 3. The Clerk of Court is directed to close this case.

8
9 IT IS SO ORDERED.

10 Dated: **December 22, 2024**


UNITED STATES DISTRICT JUDGE